Remarks

Applicants have received and reviewed an Office Action mailed May 7, 2001. Claims 1-18 remain pending. In the Office Action, the Examiner rejected claims 1-18. For the reasons given below, Applicant submits that the claims are in condition for allowance and notification to that effect is earnestly solicited.

Applicant requests that the drawings be treated as informal. In the Drawings, Figures 5, 6, 8, 10, and 21 have been amended to correct reference numerals and add reference numeral leader lines. The specification has been amended to correct minor errors contained therein.

Rejection of Claims Under § 101

The Examiner rejected claims 1-6 under 35 U.S.C. § 101 as directed to non-statutory subject matter. The Examiner stated:

> An evaluation of these steps does not show that the method performs independent physical acts. The step of "displaying a pictorial representation of an existing system including a plurality of components", or "presenting a first set of components that are to be delivered in a first phase by indicia coding the same", or "presenting a second set of components that are to be delivered in a second phase by indicia coding the same in a manner unique with respect to the indicia coding of the first set of components" are not sufficient to meet the requirements of physical acts, because they are grounded in the abstract idea of physically performing manipulations of data. Moreover, none of the methods steps affirmatively recite physical transformation occurring within a computer. In this regard, the claims merely manipulate an abstract algorithm without any limitation to a practical limitation within the technological arts.

Applicants respectfully traverse this rejection. The Applicants submit that the claimed steps recite physical acts of "displaying" and "presenting" a pictorial representation of components of a system. The claimed steps do not involve mere manipulations of data but rather require the physical act of creating and displaying pictorial representations about component delivery.

Further, claim 1 is drawn to patentable subject matter because the claimed process produces a tangible and useful result. The Federal Circuit has squarely held that subject matter may be patentable without a physical act or physical transformation. State Street Bank & Trust v. Signature Financial Group Inc., 149 F.3d 1368, 1375 (Fed. Cir. 1998). In State Street Bank,

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the Federal Circuit declared that "it is no ground for holding a claim is directed to nonstatutory subject matter to say it includes or is directed to an algorithm" Id. at 1375 quoting In re Iwahashi, 888 F.2d 1370, 1374 (Fed. Cir. 1989). The court explained that "Unpatentable mathematical algorithms are identifiable by showing they are merely abstract ideas constituting disembodied concepts or truths that are not 'useful.' From a practical standpoint, this means that to be patentable an algorithm must be applied in a 'useful' way." State Street Bank, 149 F.3d at 1373.

Section 2106 of the MPEP provides further guidelines for determining whether a process claim recites statutory subject matter. A claimed process including a mathematical or other abstract idea is statutory if the claimed process is "limited to a practical application of the abstract idea or mathematical algorithm in the technological arts. A claim is limited to a practical application when the method, as claimed, produces a concrete, tangible, and useful result; i.e., the method recites a step or act of producing something that is concrete, tangible, and useful." MPEP 2106(IV)(B)(2)(b)(ii) (Eighth Edition) (citations omitted). Examples of a "concrete, tangible, and useful" result include a smooth waveform, see In Re Alappat, 33 F.3d 1526, 31 USPQ2d 1545 (Fed. Cir. 1994), data indicating the condition of a patient's heart, see Arrhythmia Research Technology Inc, v. Corazonix Corp., 958 F.2d 1053, 22 USPQ2d 1033 (Fed. Cir. 1992), and a final share price, see State Street Bank, 149 F.3d 1368.

Applicants submit that claim 1 produces a concrete, tangible, and useful result. For example, the claimed method displays components of a system that are delivered in phases and indicates the particular phases of delivery using an indicia coding. The claimed steps are not a "disembodied concept[] or truth[]," State Street Bank, 149 F.3d at 1373, but rather provide a useful way summary of component delivery information.

Accordingly, it is believed that the claims fully comply with § 101 because they require physical acts and produce a concrete, useful and tangible result, and withdrawal of this rejection is respectfully requested.

Rejections of Claims Under § 102(b)

The Examiner rejected claims 1, 4, 5, 7, 10, 11, 13, 16, 17 under 35 U.S.C. 102(b) as being anticipated by Rassman, et al (US Patent 4,937,743). The Examiner stated:

> As per claims 1, 7, 13, Rassman, et al discloses:
> displaying a pictorial representation of an existing system...(Col. 2, lines 59-65, Col. 14, lines 13-16, Fig. 7, [resources 123, 233, 224]);
> presenting a first set of components...(Col. 15, lines 41-43, Fig. 7, [Phase one]);
> presenting a second set of components...(Col. 15, lines 41-43, Fig. 7, [phase two]);
> The following is inherent with Rassman, et al's system because since he teaches that his method is carried out in a computer system, computer programs using code segments and logic is absolutely necessary for the computer to successfully process information and produce results:
> A computer program...
> a code segment...
> logic...

The Applicants respectfully traverse this rejection.

Claim 1 relates to a method for displaying phases in which components of a system are delivered, including the steps of displaying a pictorial representation of an existing system including a plurality of components and presenting a first set of components that are to be delivered and a first phase by indicia coding the same. The method of claim 1 further includes the step of presenting a second set of components that are to be delivered in a second phase by indicia coding the same in a manner unique with respect to the indicia coding of the first set of components. Independent claim 7 relates to a computer program embodied in a computer

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readable medium for displaying phases in which components of a system are delivered including code segments that accomplish the steps of claim 1. Independent claim 13 relates to a system for displaying phases in which components of a system are delivered comprising logic for accomplishing the steps of claim 1.

In contrast, Rassman et al. concerns the scheduling of interrelated resources using a computer system. FIGS. 6 and 7 of Rassman for example show the allocation of Resources 123, 223, 224 to various phases of Projects X and Y. The scheduling of resources is displayed against a vertical timeline that is presented on the left side of FIGS 6 and 7. In Rassman, "resources" refers to a room, a person, a piece of equipment, or the like in a hospital setting. Rassman, Col. 5, lines 51-53.

Rassman fails to disclose the steps of presenting "a first set of components that are to be delivered in a first phase" and presenting "a second set of components that are to be delivered in second phase" as recited in claims 1, 7, and 13. Rassman concerns the scheduling and allocation of available resources in project phases. Rassman does not show or discuss presenting sets of components to be delivered in á first phase and a second phase as required by the claims.

Rassman also fails to disclose presenting "a first set of components . . . by indicia coding . . . and presenting a second set of components . . . by indicia coding the same in a manner unique with respect to the indicia coding of the first set of components." As shown in FIGS. 6 and 7, Rassman displays the sequential scheduling of resources using a vertical timeline rather than using indicia coding as recited in claims 1, 7, and 13. For at least these reasons, independent claims 1, 7 and 13 and dependant claims 2-6, 8-12 and 14-18 are patentable over the cited reference.

Claims 2, 8 and 14 further state that a legend is presented which identifies that indicia coding with respect to the phases of delivery of the components.

The Examiner further stated:

> As per claims 2, 8, 14, Rassman, et al discloses:
> wherein a legend is presented which defines the indicia coding...(Col. 7, lines 11-18, Col. 8, lines 5-7 [indicia is being used to define an item]).

Applicants respectfully traverse this rejection. Rassman uses indicia coding to identify periods of scheduling conflict, not to identify phases of delivery of components. Accordingly, claims 2, 8 and 14 are further patentable over Rassman.

Accordingly, it is believed that the claims fully comply with § 102(b), and withdrawal of this rejection is respectfully requested.

Rejections of Claims Under § 103

The Examiner rejected claims 3, 6, 9, 12, 15, 18 under 35 U.S.C. 103(a) as being unpatentable over Rassman, et al (US Patent 4,937,743) in view of Turnbull (US Patent 5,208,765).

The Examiner stated:

> As per claims 3, 9, 15, Rassman, et al fails to teach the following, however Turnbull discloses:
> wherein the components of the existing system are selected from the group of components including...operation services and developer services...(Col. 2, lines 27-30).
> It would have been obvious to one of ordinary skill in the art to select the components of the system from the group of components including...operation services and developer services because in order to fulfill services, the delivery of components or resources are necessary.

Applicants respectfully traverse this rejection. Neither Rassman nor Turnbull teaches or suggests presenting a set of components, including operation services or developer services, that

are to be delivered in a first phase by indicia coding the same as recited by dependent claims 3, 9, and 15.

The Examiner further stated:

> As per claims 6, 12, 18, Rassman, et al fails to teach the following, however Turnbull discloses:
> wherein the existing system is a web...(Col. 2, lines 39-43, [wide area network]).
> It would have been obvious to one of ordinary skill in the art for the existing system to be a web architecture framework because these types of networks are commonly used in order to deliver information to a wide variety of people.

Applicants respectfully traverse this rejection. Neither Rassman nor Turnbull teaches presenting a first set of components, including web components, that are to be delivered in a first phase by indicia coding the same, as required by claims 6, 12, and 18.

Accordingly, it is believed that the claims fully comply with § 103(a), and withdrawal of this rejection is respectfully requested.

Summary

In summary, each of claims 1-18 are in condition for allowance and a notice of allowance is respectfully requested. The Examiner is encouraged to contact Applicants' undersigned representative if such contact is helpful in any way.

Respectfully submitted,

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	GUHEEN ET AL.	Examiner:	A. ROBINSON-BOYCE
Serial No.:	09/321,360	Group Art Unit:	2163
Filed:	MAY 27, 1999	Docket No.:	8567.106US01
Title:	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR PHASE DELIVERY OF COMPONENTS OF A SYSTEM REQUIRED FOR IMPLEMENTATION OF TECHNOLOGY		

SPECIFICATION AMENDMENTS—MARKUP

Second full paragraph on page 17:

In one exemplary method to determine which components are required for the implementation of the system in order to indicia code them in operation **35**, a database may be created which includes a listing of all of the components of the system. See operation **35a** of Figure [1B-2] **1C-1**. Also, listings of all components of the framework necessary to the implementation of the system are created in the same or a second database in operation **35b**. Then, the listing of the entire set of components is compared with the listing of the required components in operation **35c**. In operation **35d**, any components that match are indicia coded on the pictorial representation created in operation **34**.

Third paragraph on page 89:

The pipeline strategy for a program must incorporate code base synchronization. Code base synchronization must occur among the three pipelines to ensure that the three code bases eventually result in one version in production. Figure **9** is an illustration showing a multiple release capability development pipeline **900** with code base synchronization among three pipelines.

Seventh paragraph on page 117:

- **Release Management tools** [218] **217** manages the simultaneous development of multiple releases

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<u>Last paragraph on page 346/first paragraph on page 347:</u>

One embodiment of the electronic commerce component of the present invention is adapted for advertising in a virtual shopping environment in operation **1510** of Figure **15**. Figure **19** illustrates the operation in more detail. In operation **1902**, a plurality of items, i.e. products or services, are displayed for purchase. Along with the items being displayed for purchase, or on a subsequent page or pages, advertisement information which relates to at least one of the items displayed for purchase are displayed in operation **1903**. Figure **19A** provides more detail of operation **1903**. The advertisements are preferably preassociated with individual items or may be associated with an entire classes of items in operation **1910**. When the items are selected for display, one or more of the advertisements is automatically displayed as well in operation **1911**. In operation **1912**, if there are many advertisements, the advertisements are rotated so that each gets an equal amount of display time, or according to the premium paid by the advertiser. A user is permitted to select the items for purchase, as indicated by operation **1904**. Payment is then accepted in exchange for the selected items in operation [1905] **1906**. While the virtual shopping environment is being used, advertisement information may be displayed which relates to at least one of the items for purchase and also relates to the user based on the profile of the user. This is particularly useful where the advertisements are being rotated. Then the advertiser would be billed based upon the number of times its advertisement was shown. Note that the items each include at least one of a product and a service.

<u>First full paragraph on page 357:</u>

As an option, the license agreement may be sent to the user via electronic mail or the like in operation [2110] **2109**. The present invention may further track entitlements of the user granted under the license agreement. The user may even be prevented from utilizing the software until the license agreement is generated.

As shown in component **1406** of Figure **14**, one embodiment of the present invention is provided for affording a combination of web application services to manage customer relationships. Figure **23** illustrates component **1406** in more detail. As shown in Figure **23**, profile data of a plurality of users is managed and organized in operation **2300**. Static and dynamic information of interest is provided to each user based on profile data of that user in operation [2304] **2302**. Further, static and dynamic information of interest is provided to a plurality of users having similar profile data in operation **2304**. Information is also located on a network of databases, i.e. the Internet, as a function of the profile data. Feedback is also collected from the users by way of electronic forms and surveys. Note operation **2306**. Various event, calendaring and registration services are further provided. For example, operation **2308** reminds the users of upcoming events, a calendar of events is maintained, and the users are permitted to register for the events.